


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 086142-0663	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] On _____ Signature _____ Typed or printed name _____	Application Number 10/824,373	Filed 4/15/2004	
	First Named Inventor Naoki SOEJIMA		
	Art Unit 3616	Examiner Leonard McCreary	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>39,370</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input checked="" type="checkbox"/> *Total of 1 forms are submitted.</p>			



Signature

Howard N. Shipley
Typed or Printed Name

(202) 672-5582
Telephone Number

June 7, 2007
Date

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Naoki SOEJIMA
Title: AIRBAG MODULE AND COVER
Appl. No.: 10/824,373
Filing Date: 4/15/2004
Examiner: Leonard McCreary
Art Unit: 3616
Confirmation Number: 6634

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the New **Pre-Appeal Brief Conference Pilot Program**, announced July 11, 2005, this Pre-Appeal Brief Request is being filed together with a Notice of Appeal.

REMARKS

Rejection under 35 U.S.C. § 102

Claims 1, 6, and 7 are rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent. No. 5,979,931 (hereafter "Totani et al."). This rejection is respectfully traversed. Claim 1 has been amended to incorporate the features of claim 2. As stated on page 3 of the Office Action dated December 13, 2006, Totani et al. does not disclose the features of claim 2. Withdrawal of this rejection is respectfully requested.

Rejections under 35 U.S.C. § 103

Claim 2 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Totani et al. in view of U.S. Patent No. 6,308,391 (hereafter “Blaimschein et al.”). This rejection is respectfully traversed.

Blaimschein et al. discloses a machining method in which a distance between a reference point on a knife and a workpiece surface is determined. See Blaimschein et al. at col. 1, lines 36-57. Blaimschein et al. discloses measuring a distance between a sensor 17 and a workpiece surface. See Blaimschein et al. at col. 4, lines 1-8. However, Blaimschein et al. does not disclose or suggest determining the two distances recited in amended claim 1. Blaimschein et al. does not disclose or suggest “determining a first distance between a processing edge of an ultrasonic processing mechanism and a predetermined location on the ultrasonic processing mechanism; determining a second distance between a processing surface of the airbag cover and the predetermined location on the ultrasonic processing mechanism.” Nor is the distance disclosed by Blaimschein et al., i.e. the distance between a reference point on a knife and a workpiece surface, a distance between a processing edge of an ultrasonic processing mechanism and a predetermined location on the ultrasonic processing mechanism.

Furthermore, it would not have been obvious to one of ordinary skill in the art to modify the teachings of Totani et al. by the teachings of Blaimschein et al. to produce the claimed method. A basic requirement of a *prima facie* case of obviousness is that a prior art reference, or references when combined, teach or suggest all claim limitations. See M.P.E.P. §§ 2143, 2143.03. Totani et al. and Blaimschein et al., alone or in combination, fail to disclose or suggest all of the features of claim 1. Therefore, the teachings of Totani et al. and Blaimschein et al. could be combined to provide the method of claim 1.

The Office asserts that it would have been obvious to determine the two distances recited in claim 1 through calibration or “zeroing” of the cutting tool on the workpiece. See Office Action dated December 13, 2006, at page 4. However, Totani et al. and Blaimschein et al. do not disclose or suggest determining the two distances recited in claim 1. Nor do

Totani et al. and Blaimschein et al. disclose or suggest a calibration or “zeroing” step that would inherently determine the two distances recited in claim 1.

The two distances recited in claim 1 are not commonly known and are not disclosed in the art of record. If the PTO intends to take Official Notice with regard to these features, Applicant respectfully requests that the PTO provide prior art to show these features or withdraw the rejection. See M.P.E.P. § 2144.03. In the supplemental Advisory Action dated June 1, 2007, the Office asserts that Office Notice was not taken in the rejection. However, the Office asserted that it would have been obvious to determine a distance between a processing edge of an ultrasonic processing mechanism and a predetermined location on the ultrasonic processing mechanism through calibration or “zeroing” without referencing any prior art reference for support. See Office Action date December 13, 2006, at page 4. Furthermore, Totani et al. and Blaimschein et al. do not disclose or suggest all of features of claim 1, which includes the features of former claim 2, for at least the reasons discussed above. Withdrawal of this rejection is respectfully requested.

Claims 3 and 4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Totani et al. in view of Blaimschein et al. as applied to claim 2, and further in view of U.S. 6,737,607 (hereafter “Nicholas et al.”). This rejection is respectfully traversed.

Nicholas et al. discloses a laser cutting apparatus in which a first sensor is used to directly determine the depth of a cut in the same spot that a laser beam is cutting a workpiece, and a second sensor that is arranged on an opposite side of the workpiece for determining a remaining thickness of the workpiece. See Nicholas et al. at col. 1, lines 48-64. However, Nicholas et al. does not disclose or suggest determining the two distances recited in claim 1. Therefore, Nicholas et al. fails to remedy the deficiencies of Totani et al. and Blaimschein et al. discussed above in regard to independent claim 1, from which claims 3 and 4 depend. Withdrawal of this rejection is respectfully requested.

Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Totani et al. in view of Blaimschein et al. as applied to claim 2, and further in view of U.S. Pub. No. 2002/0069736 (hereafter “Yasoda et al.”). This rejection is respectfully traversed.

Yasoda et al. discloses cutting apparatus in which lowering amount data of a cutting blade is determined by detecting a knife edge. See paragraphs 0030 and 0031 of Yasoda et al. However, Nicholas et al. does not disclose or suggest the determining the two distances recited in claim 1. Therefore, Yasoda et al. fails to remedy the deficiencies of Totani et al. and Blaimschein et al. discussed above in regard to independent claim 1, from which claim 5 depends. Withdrawal of this rejection is respectfully requested.

Claims 8-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Totani et al. in view of U.S. Patent No. 6,512,575 (hereafter "Marchi"). This rejection is respectfully traversed. Claim 8 has been amended to be placed in independent form.

As noted on page 6 of the Office Action dated December 13, 2006, Totani et al. does not disclose a meter that measures distances.

Marchi discloses a method of measuring distances of an object from a measuring device. See Marchi at col. 1, lines 11-13. Marchi discloses that measuring a distance from a machine tool to a surface being machined is necessary for correct positioning of the tool. See Marchi at col. 1, lines 13-21. However, Marchi discloses calibrating a device by directing a signal to a reference target that is located at a predetermined distance, detecting a signal from the reference target, and comparing signals to determine the calibration of the device. See Marchi at col. 4, lines 5-47. Therefore, Marchi discloses determining the distance to a target at a predetermined distance, not "determining a distance between the meter and a processing edge of the ultrasonic processing mechanism," as recited in claim 8.

Totani et al. and Marchi, alone or in combination, fail to disclose or suggest "determining a distance between the meter and a processing edge of the ultrasonic processing mechanism." A basic requirement of a *prima facie* case of obviousness is that a prior art reference, or references when combined, teach or suggest all claim limitations. See M.P.E.P. §§ 2143, 2143.03. Totani et al. and Marchi, alone or in combination, fail to disclose or suggest all of the features of claim 8. Therefore, the teachings of Totani et al. and Blaimschein et al. cannot be combined to provide the method of claim 8.

The PTO contends that it would have been obvious to calculate the distance between a meter and a processing edge of an ultrasonic processing mechanism on the basis of measurements disclosed by Marchi because this would have been within the skill level of one in the art. See Office Action dated December 13, 2006, at page 6. However, the PTO does not explain how one could use any measurement disclosed by Marchi to provide the distance recited in claim 8. Furthermore, the fact that a claimed invention is within the capabilities of one of ordinary skill in the art is not sufficient by itself to establish *prima facie* obviousness. See M.P.E.P. § 2143.01, Part IV. Withdrawal of this rejection is respectfully requested.

Claims 12-14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Totani et al. in view of Marchi, as applied to claim 8, and further in view of Blaimschein et al. Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Totani et al. in view of Marchi and Blaimschein et al., and further in view of Nicholas et al. These rejections are respectfully traversed. Blaimschein et al. and Nicholas et al. fail to remedy the deficiencies of Totani et al. and Marchi discussed above in regard to independent claim 8, from which claims 12-15 depend. Withdrawal of these rejections is respectfully requested.

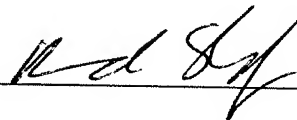
In view of the foregoing, it is respectfully submitted that the application is in condition for allowance.

Respectfully submitted,

Date

6/7/2007

By



FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5582
Facsimile: (202) 672-5399

Howard N. Shipley
Attorney for Applicant
Registration No. 39,370